

## **REMARKS**

In the Office Action mailed November 2, 2005, claims 12 and 16-20 were allowed, claim 14 was objected to, and claims 1-11, 13, and 15 were rejected in view of prior art.

**The Rejection of Claims 1-3, 6-9, 11, 13, and 15 as being obvious in view of the U.S. Patent of Eby, the U.S. patent of Lund, and the U.S. Patent of Krusemark No. 2,681,700.**

Of the claims rejected as being obvious in view of the Eby, Lund and Krusemark references, claims 1 and 9 are independent claims. These claims recite structural features of the invention that are not disclosed or suggested in the Eby, Lund, or Krusemark references, and are actually taught away from by these references. Without there being any disclosure or suggestion of the claimed subject matter in the two references, the claims are not obvious and are allowable over the prior art.

**The Eby, Lund, and Krusemark references all fail to suggest a mounting bracket having means for connecting the mounting bracket to the vehicle to hold the plurality of light assemblies in positions adjacent the window top edge and not above the top surface of the vehicle.**

Claim 1 includes a recitation of the mounting bracket having means for connecting the mounting bracket to the light bar and to the vehicle to hold the support and the light assemblies on the support in positions extending across either the front or rear facing windows adjacent the top edge of the windows and not above the top

surface of the vehicle. This feature of claim 1 is clearly not disclosed or suggested by the lamp mount of the Eby reference. The Eby lamp mount is specifically designed to extend across the top surface of the vehicle. The hook bight portion 37 of the anchor member 36 is specifically designed to connect the channel bar 30 extending across and above the top surface of the vehicle as shown in Figure 2. There is no suggestion in the Eby reference of the mounting bracket recited in claim 1 that holds a support and light assemblies on the support adjacent the top edge of a vehicle window and not above the top surface of the vehicle.

The mounting bracket of the invention recited in claim 1 is also not disclosed or suggested in the Lund reference. The Lund reference makes no disclosure of such a mounting bracket. Instead, the Lund reference discloses a rigid visor 1 constructed of materials such as metals or composites and preferably constructed of molded fiber glass material (Lund column 2, lines 40-44). The visor is attached to the vehicle roof 30 by mounting holes that are located around the visor perimeter. The visor trailing edge 5 typically resides above the vehicle roof 60 (Lund column 2, lines 44-48).

Thus, the Lund reference specifically teaches attaching the visor 1 to the roof of the vehicle. This attachment positioning is shown in Figure 1 of the reference where the visor 1, and in particular the trailing edge of the visor, is positioned on top of the vehicle roof. This is in direct contrast to the subject matter of claim 1 which specifically states that the mounting brackets position the support and the plurality of light assemblies adjacent the window top edge and not above the top surface of the vehicle.

The Krusemark reference also teaches away from the subject matter of the invention recited in claim 1. The Krusemark reference has no disclosure or suggestion

of a support and a plurality of light assemblies that are positioned adjacent a top edge of a vehicle window but not above the top surface of the vehicle. The Krusemark reference specifically sets forth that the visor assembly shown in the reference is positioned over the windshield of the vehicle (col. 2, lines 12-13), and above the windshield of the vehicle (claims 1-5, line 2). Furthermore, each of the Krusemark claims 1-5 describes the visor assembly as having a center support adapted to be secured to the center part of the vehicle to lie spaced above the center portion of the windshield. If the Krusemark reference provides any teaching, it teaches positioning a visor assembly above a windshield, not adjacent a top edge of the windshield as recited in claim 1. Furthermore, the Krusemark reference provides no suggestion of not positioning a support and a plurality of light assemblies above the top surface of the vehicle as recited in claim 1. The reference only describes the visor as being positioned above the vehicle windshield. There is no mention or suggestion of not positioning the visor above the top surface of the vehicle.

In view of the disclosures of the three references discussed above, it would appear that the contention that the references teach or suggest the subject matter of the invention recited in the rejected claims is based on hindsight of the present invention. There is nothing in any of the three references that suggests a support and a plurality of light assemblies positioned adjacent the top edge of a vehicle window, but not above the top surface of the vehicle. Reading this suggestion into the teachings of the three references can only result from hindsight of the present invention.

To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome

wherein that which only the inventor taught is used against its teacher.

*W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983).

The ordinary skilled artisan, having no knowledge of the invention claimed, reading the disclosures of the three references would not be lead to the invention claimed. The rejection of the claims in view of the three references relies on hindsight of the invention, and therefore the rejection should be withdrawn and the claims allowed.

**The rejection of claim 9 is based on the impermissive use of hindsight. There is no motivation for combining the Eby, Lund, and Krusemark references.**

With regard to the rejection of claim 9 in view of the Eby, Lund, and Krusemark references, it is submitted that the claim is allowable for the same reasons discussed above with regard to claim 1. There is no motivation for combining these references to arrive at the subject matter of claim 9, and therefore the rejection of the claim is based on hindsight of the present invention.

**Claim 9 specifically requires at least one mounting bracket having means for connecting the mounting bracket to the vehicle to hold the support extending “across” either of the vehicle windows.**

The Eby reference discloses a mounting bracket assembly for supporting an emergency light on the roof of an automobile. The references specifically sets forth that the main object of the invention is to provide a mounting bracket device adapted to be detachably connected to the roof of an automobile (Eby column 1, lines 6-8). The

reference further sets forth that a further object of the invention is to provide a mounting bracket assembly for supporting emergency lamps on the roof of an automobile (Eby column 1, lines 14-17). Thus, the Eby reference is specifically directed for supporting lamps on an automobile roof. There is no suggestion of a support that holds lamps extending across the vehicle windows as required by claim 9. This suggestion can only be found in the applicant's disclosure.

The Lund reference, as explained earlier, discloses a visor 1 that is attached to a vehicle roof (Lund column 2, lines 44-45). The visor trailing edge resides above the vehicle roof (Lund column 2, lines 47-48). Thus, the Lund reference also fails to disclose or suggest a light support that is held extending across the vehicle window as recited in claim 9.

The Krusemark reference also fails to provide any teaching or suggestion of a mounting bracket having means for connecting the bracket to a light bar and means for connecting the bracket to a vehicle to hold the support of the light bar in a curved configuration extending across the vehicle window as recited in claim 9. The Krusemark reference specifically sets forth that the visor assembly of the reference is positioned over the windshield of the vehicle (col. 2, lines 12-13), and above the windshield of the vehicle (claims 1-5, line 2). Each of the Krusemark claims 1-5 describes the visor assembly as having a center support adapted to be secured to the center part of the vehicle to lie spaced above the center portion of the windshield. The only teaching provided by the Krusemark reference is that of positioning a visor assembly above the windshield of a vehicle, not extending across the vehicle window as

claimed. This interpretation of the Krusemark reference can only be arrived at through hindsight of the invention.

The ordinary skilled artisan reviewing any of the three references relied on in rejecting claim 9 would not see a suggestion of a mounting bracket holding a support to a vehicle in a curved configuration of the support extending across the vehicle window as recited in claim 9. This interpretation of the prior art can only be arrived at through the impermissible use of hindsight of the invention. It is therefore submitted that the rejection of claim 9 should be withdrawn and the claim allowed.

Because neither of the applied references remotely suggest the subject matter of the invention recited in claim 9, and actually teach away from that subject matter, it is submitted that the combination of references relied on in rejecting claim 9 is made in hindsight of the present invention, and therefore is improper. Claim 9 is therefore allowable over the prior art. Claims 11, 13, and 15 all depend from claim 9, and therefore are allowable over the prior art of record.

**The disclosure of the U.S. Patent of Ohlenforst, et al. No. 4,488,141 does not overcome the shortcomings of the Eby, Lund, and Krusemark references.**

Claims 4, 5, and 10 were rejected as being obvious in view of the combined disclosures of the Eby, Lund, Krusemark and Ohlenforst references. Claims 4 and 5 depend from claim 1, and claim 10 depends from claim 9. It is submitted that the disclosure of the Ohlenforst reference does not overcome the shortcomings of the Eby, Lund, and Krusemark references discussed above, i.e. suggesting the subject matter of the invention recited in independent claims 1 and 9. In view of the this shortcoming of

all four references, it is submitted that claims 4, 5, and 10 are allowable over the prior art.

It is respectfully submitted that in view of the amendments and remarks presented herein, the application is in condition for allowance and favorable action is requested.

Respectfully submitted,

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